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PROTECTION OF MINORITIES

Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities

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Addendum

Replies of the Government of Yugoslavia to the questionnaire

Yugoslavia

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1. The last reply to the questionnaire of the Sub-Commission on Prevention of Discrimination and Protection of Minorities was submitted on 25 January 1991 by the Government of the Socialist Federal Republic of Yugoslavia (hereinafter SFRY). As it is known, numerous territorial, political and legal changes have taken place in the meantime.

2. In April 1992, the Republic of Serbia and the Republic of Montenegro proclaimed the Federal Republic of Yugoslavia (hereinafter FRY) and adopted a new Constitution. In the Preamble to the FRY Constitution it is underlined that the new Constitution is based on the continued personality of Yugoslavia. Pursuant to the proclamation, all previous commitments under various international instruments have been taken over. Accordingly, at its inception as a State, the FRY committed itself to report on the instruments ratified by the SFRY. For this reason, the FRY will continue to submit regular periodic

reports to bodies set up to ensure implementation of international conventions. Naturally, the FRY will abide not only by the ratified international agreements, but by generally accepted principles of international law as well. However, as mentioned above, the changes have been many and sundry.

3. As to the questions relating to minority groups, the situation has substantially changed in comparison to the situation reflected in the 1991 report, primarily as a result of the changed political map of Yugoslavia. It is therefore necessary to make some amendments to the previous reply to the questionnaire.

Table 1. Data on the national composition of the FRY according to the 1991 census

Group	Serbia	Montenegro	FRY
Serbs	6 428 420	57 176	6 485 598
Montenegrins	140 024	380 484	520 508
Albanians	1 666 661	40 680	1 727 541
Hungarians	345 376	-	345 376
Yugoslavs	317 739	25 854	343 593
Muslims	237 358	89 932	327 290
Romanies	137 265	-	137 265
Croats	109 214	6 249	115 483
Slovaks	67 234	-	67 234
Macedonians	47 577	860	48 437
Romanians	42 386	-	42 386
Bulgarians	25 214	-	25 214
Ruthenians	18 339	-	18 339
Vlachs	17 557	-	17 557
Turks	11 501	-	11 501
Slovenians	8 340	407	8 784
Regional affiliation	4 881	-	4 881
Others	44 866	13 425	58 291
Undeclared	16 661	-	16 661
Unknown	61 278	-	61 278

4. The above data refer to citizens who have a permanent place of residence. At this moment there are approximately 700,000 persons from the former SFRY republics of Croatia and Bosnia and Herzegovina in the territory of the FRY with refugee status. Their status and rights have been regulated by law in the Republic of Serbia (April 1992).

Question ii

5. Minority rights are guaranteed in the Constitution of the FRY and in the Constitutions of the Republic of Serbia and the Republic of Montenegro respectively. However, the terminology used in these three documents is not uniform. The FRY Constitution (art. 11) uses the term "national minority". The Constitution of the Republic of Serbia uses the term "nationality", while the most recent text of the Constitution of the Republic of Montenegro uses the term "national and ethnic groups".

6. None of the constitutions enumerates the ethnic groups included in the composition of the FRY and its constituent republics. All three constitutions were adopted by legitimately elected Assemblies whose members included minority representatives. Harmonization of positions took place in the process of drafting. The greatest dissatisfaction was expressed by ethnic Albanians of Kosovo and Metohija vis-à-vis the Constitution of the Republic of Serbia of 1990. It focused on the alleged withholding of the rights granted them by the 1974 SFRY Constitution. The authors of the Constitution in Serbia explained that the new Constitution granted the Albanians of Kosovo and Metohija the same minority rights recognized by the international community in the instruments. The new Constitution retains all minority rights guaranteed by the previous Constitution. The only difference is the modified status of the province, which no longer has attributes of a state.

7. The Federal Government is also preparing a law on minorities which will soon be presented to the Federal Assembly. The adoption of the law will provide an effective and comprehensive system of legal protection of minority rights.

Question iii

8. In article 1 of the Constitution of the FRY it is said that the FRY is based on the equality of its citizens. Pursuant to article 8, power in the FRY is vested in its citizens, while article 6 says that power in the constituent republics is vested in their citizens. This means that each citizen of the FRY, belonging either to a majority or a minority group, has the right to take part in the exercise of power at all levels under the same conditions.

9. The Constitution of the Republic of Serbia treats this matter in a similar way. In article 13 it is said that citizens are equal in rights and duties irrespective of race, sex, birth, language, national origin, religion, political or any other conviction, and that they exercise their sovereignty (art. 2) through referendum, people's initiative and through their freely elected representatives.

10. The Constitution of the Republic of Montenegro treats this matter in great detail. In addition to general provisions, applicable in the Constitutions of the FRY and the Republic of Serbia to the interpretation of minority rights, the Constitution of Montenegro in its separate section regulating specific rights of members of national and ethnic groups (art. 73), guarantee to members of these groups the right to proportional representation in public services and in the organs of republican and local government.

11. Even with such a system of protection, not all minority problems have been solved. In different parts of the country they are manifested in different ways, and some of them are indeed related to human rights violations. The problems pointed to by members of minority groups have escalated with the escalation of the Yugoslav crisis. Regarding participation in the system of government, the position of the most numerous ethnic minority groups varies. Minority organizations in Vojvodina, although often critical of the problems, do exercise their rights guaranteed by the Constitution and take an active part in the political life of the FRY, the Republic of Serbia, and in local institutions through their legitimately elected representatives. Muslims of Sandzak have by and large boycotted the December 1992 elections (approximately 10 per cent of the electorate voted), whereby they failed to exercise their constitutional rights to participate in the government. Their political representatives publicly demand that Muslims be recognized as a constituent people, alleging that minority status falls short of ensuring the rights guaranteed to them. Ethnic Albanians in Kosovo and Metohija present a special problem. Not only do they refuse to participate in political life, but they are increasingly demonstrating separatist tendencies, the ultimate goal of which is outright secession from the FRY. The ethnic Albanians of Kosovo and Metohija have set up illegal, parallel organs of government and their representatives assess the position of their people as devoid of any rights. They consider "minority" status unacceptable and aspire to be recognized as a "people", which is unacceptable for the FRY. Finding a solution to this problem will be very difficult because Albanians make each and every dialogue contingent on a prior recognition of the status of Kosovo and Metohija.

12. In the present multi-party political system in the FRY, preponderant parts of minority populations rally around their ethnic political organizations.

Question iv

13. As regards culture and education, the Constitution of the FRY guarantees free expression of nationality, culture and the use of the language and alphabet. The Federal Government is preparing a law on the use of language and alphabet. Besides, the Constitution guarantees the members of minority groups the right to education in their mother tongue, the right to use their language in proceedings before the court or any other State organ related to their rights or duties and to familiarize themselves during the proceedings with evidence in their language, as well as the right to be informed, in their or any other language they understand, of the charges brought against them in the event of arrest and detention. In addition, the Constitution of Montenegro provides for the inclusion in school curricula of the history and culture of national and ethnic groups.

14. Under the Constitution of the FRY, members of minority groups have the right to establish educational and cultural organizations or associations, provided they are funded on the basis of voluntary contributions and through possible support of the State. The Constitution of Montenegro is more explicit in this respect and provides for the obligation of the State to render material support.

15. In addition to the Constitution, the rights of minority group members are further elaborated in numerous laws at the federal and especially at the republican level. These stipulate the conditions for their enjoyment and envisage sanctions for the violation of certain rights. As soon as it was voted into office on 15 July 1992, the Federal Government took it upon itself, as one of its priority tasks, to transform the system of government and institute the rule of law. Since it had already become evident that there was a pressing need for establishing a body for the protection of human rights, the Government established the Ministry for Human and Minority Rights. The main goal was to improve the situation in this area and to lay foundations for full protection of human rights. The Ministry's purview is the realization of human and civil rights granted by the Constitution of the FRY, in particular keeping abreast of the situation and exercising administrative control of the implementation of federal laws and other federal rules and regulations in the realization of human and minority rights: the realization of minority rights guaranteed by the Constitution of the FRY; federal laws and other federal rules and regulations and international acts; protection of human rights in accordance with international humanitarian law; protection of individual, property and other rights and freedoms of refugees from the former SFRY and their international legal protection; promotion and development of the legal system in the FRY in the field of human rights and fundamental freedoms enshrined in the Charter of the United Nations, Universal Declaration of Human Rights and other international documents on human and civil rights and their protection; cooperation and relations with Yugoslav and international institutions and bodies for the protection of human rights and fundamental freedoms; information about the position of citizens of the FRY living in other countries; initiating proceedings before the organs in charge of the protection of human rights and fundamental freedoms; and other matters in the field of human and minority rights.

16. Ever since its establishment, this Ministry focused its activity on translating into law and elaborating the human and civil rights freedoms guaranteed by the Constitution and on mechanisms for their realization and effective implementation; the identification of and the search for solutions to specific problems in this field; the establishment and promotion of cooperation with international and Yugoslav bodies for the protection of rights and freedoms, as well as the creation and affirmation of the institutional framework for the resolution of minority and other broader questions and on the development of general favourable conditions for the promotion of the overall situation in the realization and protection of civil rights and freedoms. Since its establishment the Ministry has drawn up a national minority rights bill, a civil rights protector (ombudsman) bill, a bill on the official use of languages and alphabets in the work of federal organs and organizations and a bill on the rehabilitation of political prisoners.

17. Another body dealing with the protection of human rights guaranteed by the Constitution is the Federal Constitutional Court (art. 124, para. 6 of the FRY Constitution) which decides on complaints related to breaches committed either by an individual act or activity of the human and civil rights and freedoms provided for by the Constitution.

18. The Constitution of the Republic of Montenegro has very similar provisions. The Constitutional Court (art. 113, para. 4) decides on complaints related to breaches, committed either by an individual act or activity, of the human and civil rights and freedoms provided for by the Constitution whenever such protection is not within the jurisdiction of the Federal Constitutional Court and whenever no other legal protection is provided for.

Question v

19. As already explained, the Constitutions of the FRY and the Republics of Serbia and Montenegro guarantee to members of minority groups the right to education in their own languages. As far as laws go, most of the laws pertaining to this matter are within the jurisdiction of the Republics. In the Republic of Montenegro, two laws - the Law on Elementary School and the Law on Secondary School - provide for the establishment of schools or classes in the Albanian language in the communities in which a substantial number of people of the Albanian minority live and for the possibility of establishing bilingual schools and classes in the communities in which other members of Yugoslav society live side by side with the Albanian minority. There are elementary and secondary schools in the Republic of Serbia in which all subjects are taught in a minority language. For example, at the Pedagogical Academy in Subotica all subjects are taught in Hungarian, Slovak or Romanian.

20. The following laws are in force in the Republic of Serbia: the Law on Elementary School, the Law on Secondary School, the Law on Higher Schools and the Law on the University. As provided for by the Law on the University, in the provinces the curricula may be taught also in the language of a nationality if so requested by at least 30 students.

21. In practice, problems arise from the curricula to be taught in educational institutions, particularly in the region of Kosovo and Metohija, where the Albanian minority boycotts schools with the explanation that tutoring in their language is not sufficient for the enjoyment of their rights and that it is necessary that they themselves draw up their own curricula. This issue has been defined more precisely only in the Constitution of the Republic of Montenegro in which it is stipulated that the history and culture of ethnic groups are to be included in curricula of educational institutions.

22. As far as recent immigrant groups are concerned, which have been discussed above (see the response to question no. 1), the Law on Refugees of the Republic of Serbia, paragraph 2, provides that refugees enjoy the right to education pursuant to the regulations in force. This right is realized without discrimination.

Question vi

23. Ever since the establishment of the Socialist Federal Republic of Yugoslavia, national groups could participate directly in the political life of the country through their representatives in assemblies and executive organs, not only concerning the issues related to their special minority status but also concerning all other issues related to their overall social development. Their rights are guaranteed them today as well.

24. There are several rules to encourage minorities to participate in social and political life. First and foremost, members of minorities are encouraged to participate actively in all aspects of public life as citizens and voters, as representatives in executive bodies and as deputies in assemblies. And they are not expected only to rubber-stamp, but to present their views on policy-making. The emphasis is on granting equitable status to minority groups in all bodies by enabling their members to participate in the work of th se bodies by submitting material and by participating in debates in their own language, which makes it much easier for them to contribute to discussions and to have real equality in the bodies. Professionals from among minority groups are trained to work in government agencies, administration, the judiciary and in other institutions in the languages of minority groups.

25. The territorial and political organization of municipalities carried out between 1952 and 1963 accounted in great measure for the political organization of municipalities as basic social, territorial and political units along ethnic lines. Citizens have the constitutional right to decide o the establishment of municipalities, even to choose the municipality they will belong to. This policy enabled minority groups to establish ethnically homogeneous municipalities wherever it proved possible. Thanks to such a policy about three quarters of the members of minority groups belong to municipalities in which they make up the majority population or constitute compact groups within municipalities.

26. According to the 1991 census, members of minority groups live as compact groups in more than 100 municipalities in Yugoslavia. They are the majority population in 34 municipalities in Serbia (9 municipalities in Vojvodina and 21 municipalities in Kosovo and Metohija) and in 1 municipality in Montenegro. It should be said that Albanians live in most of these municipalities, while Hungarians, Muslims, Bulgarians and other minorities live in others.

27. Another important facet is the right of minority groups to elect and to be elected to federal, republic and provincial assemblies including the right to set up free political, trade union and other organizations. These organizations can be banned (art. 42, para. 1, of the Constitution of the FRY) only if they are directed against the constitutional order and territorial integrity of the FRY or if they violate guaranteed human and civil rights and freedoms or incite national, racial, religious or other intolerance or hatred.

Question vii

28. Negative developments characterized minority questions until 1945 and the establishment of socialist Yugoslavia. In order to understand better the development of minority groups, it is necessary to take into account the

specific level of the development of various regions, as well as the overall development of Yugoslavia, and, consequently, the development of minority groups within the context of Yugoslavia's minorities policy.

29. Improvement in the living and working conditions of minority groups was uneven due to their specific development. Members of minority groups such as Czechs, Hungarians, Slovaks, Ruthenians, Ukranians and Croats lived by and large in economically and socially developed regions, mainly in cities and towns. The general 50-year development of these regions contributed significantly to their overall development.

30. Members of Albanian and part of Bulgarian, Muslim, Romany and Turkish minorities live mainly in economically underdeveloped regions. In general they share the destiny of the Yugoslav peoples living in these regions, but some of them (Muslims, Bulgarians, Romanies and Albanians in particular) have fared even less well as they come from rural areas and conservative communities whose custom and tradition hold back their development.

31. The policy pursued after the Second World War to accelerate the development of Yugoslavia's underdeveloped regions and peoples living there was focused on accelerating the development of the regions inhabited by the minority groups and the Albanian minority in particular.

32. The 1963 Constitution promulgated such policy and had the following constitutional principles:

(a) A special fund of the Federation for financing the accelerated development of underdeveloped regions was established; the Law and Five-Year Development Plan were adopted which identified the underdeveloped republics and autonomous provinces. This was done on the basis of fiscal criteria;

(b) The Federal Government was entrusted with the task of providing financial assistance to social services in underdeveloped regions from the federal budget;

(c) Implementation of this policy accounted directly or indirectly for a rapid improvement of the material and social life and working conditions of more than 90 per cent of the entire minority population.

33. However, the Republic of Serbia had its own Fund for Underdeveloped Municipalities and Towns. Although it was not an underdeveloped republic, some of its municipalities, for example Tutin, Sjenica, Novi Pazar, Raska and Brus (mainly in the Sandzak region), were at the level of municipalities in underdeveloped republics. Significant financial resources were invested in those municipalities which resulted in their proportional development, but they still remain among the least developed regions in Serbia and the Federal Republic of Yugoslavia.

34. The accelerated development of Kosovo and Metohija as the least developed region in Yugoslavia inhabited predominantly by minority groups and its accelerated material development constituted a precondition for equality among the peoples and minority groups in Yugoslavia.

35. Before the Second World War, Kosovo and Metohija was the least developed region. More than 80 per cent of the population was employed in agriculture, which was extensive (cultivation was done by the wooden plough and cattle and there were no market product surpluses). Agrarian reform and a law prohibiting return to colonized Serbs and Montenegrins to Kosovo and Metohija and the distribution of land to minority groups (Albanians, Turks and others) were therefore amongst the first economic measures of Yugoslavia taken after 1945.

36. The most significant turnabout in the economic development of Kosovo and Metohija was the accelerated development of industry providing jobs mainly for a great number of poor Albanians. The development of Kosovo and Metohija was stimulated until 1957 by investment from developed republics and Vojvodina through the General Investment Fund of the Federation and later through the Fund of the Federation for the Accelerated Development of Economically Underdeveloped Republics and the Province of Kosovo and Metohija.

37. In the period 1951-1964, about 137.8 billion dinars (at the then current rate) were invested in the economic development of Kosovo and Metohija, plus an additional 38.4 billion dinars under the 1985 plan. Kosovo and Metohija received additional financial assistance of 22.8 billion dinars for accelerating economic development in the period 1981-1985. In the period 1981-1985 Kosovo and Metohija was granted to US$ 38.4 billion credit by the International Bank for Reconstruction and Development, which accounted for 41.4 per cent of the overall allocations to underdeveloped regions in the whole of the former Yugoslavia, i.e. 20.7 per cent of the overall loan approved to Yugoslavia. In recent years, despite a very bad economic situation in Yugoslavia and Serbia, Kosovo and Metohija received US$ 1.5 million in assistance to meet its current needs in addition to various other forms of assistance granted by the Federation.

38. Despite numerous difficulties and shortcomings, the results of the economic development of Kosovo and Metohija are enormous. By extensive development of production forces and employment, the lagging of Kosovo and Metohija behind the Yugoslav average has been reduced to 15 years. Economic changes brought about changes in the structure of the population and the work force. The number of people employed in the non-agricultural sector increased by about five times, from 38,000 in 1952 to 206,000 in 1984, which is the greatest rise recorded in Yugoslavia. The percentage of industrial workers in the overall work force increased to 35 per cent and is now near the Yugoslav average.

39. The extremely high birth rate and the ensuing increase of the Albanian population in Kosovo and Metohija have had a negative effect on overall economic development. It has also affected the employment situation as it is becoming ever more difficult for an ever greater number of people to find a job. The employment capacities in Kosovo and Metohija are limited and investment from Yugoslavia cannot provide a sufficient number of jobs. The high birth rate cancels out the positive effects of the investment in the Kosovo and Metohija economy. In 1968 there were 68 people per square kilometre in Kosovo and Metohija, while in 1991 that number increased to over 100.

40. The Kosovo and Metohija Albanians account for 16.8 per cent of the overall population of the Federal Republic of Yugoslavia. The average annual population increase in Kosovo and Metohija has been 2.2 per thousand, while that number for Yugoslavia is 0.6. This is one of the highest birth rates in Europe.

41. Kosovo and Metohija has been provided with supplementary financing of social and public services. Unlike other underdeveloped republics, Kosovo and Metohija has been given such assistance since 1951. It has been provided through two channels: allocations from the federal budget and special compulsory payments to the federal budget for Kosovo and Metohija. This assistance accounted for about 90 per cent of the overall resources available to Kosovo and Metohija for financing public services and the provincial government. For all practical purposes, Kosovo and Metohija has been fully financed by Yugoslavia.

42. The reply to question viii was included in the response to question vii. The reply to question ix was included in the responses to questions vi and vii. The reply to question x was included in the response to question iii. The reply to question xi was included in the response to question vii.

Question xii

43. According to the Constitution of the FRY (art. 48) members of national minorities enjoy the right to establish and maintain relations with members of their groups within and outside the Federal Republic of Yugoslavia and to participate in international non-governmental organizations, but not to the detriment of the FRY or its constituent republics. Under article 74 of the Constitution of Montenegro, members of national or ethnic groups are guaranteed the right to establish and maintain contacts with citizens outside Montenegro who are of the same national and ethnic origin and the same cultural and historical heritage and religious belief, but not to the detriment of Montenegro. They also have the right to participate in regional and international non-governmental organizations, including the right to approach international institutions for the purpose of protecting their rights and freedoms guaranteed by the Constitution.

Question xiii

44. From the above-mentioned legal acts, it could be concluded that the rights of almost all recent immigrant groups are protected by law. The Law on Refugees enacted by the Republic of Serbia in 1982 and the Decree on Protecting Refugees passed by the Government of the Republic of Serbia lay special emphasis on their protection. In view of the fact that most of the 700,000 recent immigrants to the Federal Republic of Yugoslavia are ethnic Serb refugees and that 680,000 of them have been registered in the Republic of Serbia, it is reasonable to assume that they will not be discriminated against on the basis of race. This is corroborated by data on the ethnic composition

of the refugees registered in the Republic of Serbia: 84.2 per cent of them are Serbs, 6.2 per cent Muslims, 1.6 per cent Croats and 8 per cent are Albanians, Jews, Romanies, Bulgarians and Hungarians; 96.9 per cent of the overall number of the refugees registered in the Republic of Serbia are accommodated within families. There are no precise data on the situation in Montenegro, but the estimation of the Commissioner for Refugees of Montenegro is that there is an equal number of Serbs, Muslims and Montenegrins among refugees in that republic. The recent resettlement of the Muslim population from Trebinje (Bosnia and Herzegovina) in Montenegro may change the statistical picture. Their status in Montenegro has been regulated by the Decree on refugees.